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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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DEC 29 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Access Reform Tariff Filings)

ICORE Inc.)
Tariff F.C.C. No. 1)

97-249 ✓
97-250

Transmittal No. 10

**OPPOSITION OF ICORE, INC.
TO PETITION OF AT&T CORP.**

ICORE, Inc., pursuant to Section 1.773(b) of the Commission's rules, 47 C.F.R. § 1.773(b), and the Commission's Order in this proceeding,¹ hereby submits its Opposition to the "Petition of AT&T Corp. On Rate-Of-Return LEC Tariff Filings" (AT&T's Petition).²

I. Introduction

ICORE, Inc., an industry consulting firm, prepares and files an interstate access tariff on behalf of a number of small local exchange carriers including, Bloomingdale Home Telephone Company; Buffalo Valley Telephone Company; Mankato Citizens Telephone Company; Merchants & Farmers Telephone Company; Mid-Communications, Inc.; Odin Telephone Exchange, Inc.; Wilton Telephone Company; Baraga Telephone Company; Citizens Telephone Company of

¹ Support Material For Carriers to File to Implement Access Charge Reform Effective January 1, 1997, Order, DA 97-2358, (released November 7, 1997).

² ICORE was served with the AT&T Petition via fax at approximately 6:12 pm, after the close of business, on December 23, 1997. ICORE's offices were closed for the Christmas holiday December 24 and 25 and only learned of the AT&T Petition, when contacted by counsel on December 26, 1997.

Kecksburg; Doylestown Telephone Company; Granby Telephone & Telegraph Company; Ironton Telephone Company; Jefferson Telephone Company; McClure Telephone Company; Northwest Iowa Telephone Company; Palmerton Telephone Company; Prairie Grove Telephone Company; Rochester Telephone Company; Ronan Telephone Company; Searsboro Telephone Company; and South Canaan Telephone Company. (hereinafter "the ICORE Companies"). The ICORE Companies provide, inter alia interstate access services in various jurisdictions in the United States, including portions of Arkansas, Indiana, Illinois, Ohio, Pennsylvania, Minnesota, New Hampshire, and South Dakota.

The ICORE Companies are Tier 2B companies that have filed interstate access tariffs for their traffic sensitive rates in compliance with Section 61.39 of the Commission's rules, 47 C.F.R. § 61.39, and in accordance with the Commission's decisions in Regulation of Small Telephone Companies, CC Docket No. 86-467, FCC 87-186, 2 FCC Rcd 3811 (released June 29, 1987), modified, Regulation of Small Telephone Companies, CC Docket No. 86-467, DA 88-1408, 3 FCC Rcd 5770 (released September 27, 1988). Under Section 1.773(a)(1)(iii) of the Commission's rules, 47 C.F.R. § 1.773(a)(1)(iii), these interstate access tariffs are considered prima facie lawful and will not be suspended by the Commission absent a substantial showing of a high probability that the tariff rates would be found unlawful after investigation.

ICORE filed the referenced tariff with the Commission on December 17, 1997. The proposed rates for six of the listed ICORE Companies (Bloomingdale, Merchants, McClure, Odin, Wilton and Jefferson) reflect the historical costs that these small independent local exchange carriers ("LECs") actually incurred and historical minutes-of-use that were actually measured. The remaining fifteen ICORE Companies base their interstate access service rates on NECA established average schedule formulas.

The ICORE Companies urge the Commission to deny AT&T's Petition and allow their interstate access tariff filings to become effective without suspension or investigation. AT&T's sole complaint is that the ICORE companies have failed to provide cost support. Under the Commission's Rules such supporting data is made available only upon "reasonable request." AT&T continues to engage in the unreasonable practice of routinely requesting detailed information and explanations from small LECs, even before they have filed their tariff revisions with the Commission and seeking information that the ICORE Companies do not prepare to set their tariff rates. The grant of AT&T's Petition would seriously undermine the Commission's decision in Regulation of Small Telephone Companies³ and the recognized benefits of reducing administrative burdens as achieved by Section 61.39 of the Commission's Rules. 47 C.F.R. §61.39.

Although the ICORE Companies have yet to receive a reasonable request from AT&T, they stand ready to supply relevant supporting information consistent with Sections 1.773(a)(1)(iii) and 61.39 of the Commission's Rules and their status as either average schedule or cost companies.

II. AT&T's Petition Is Factually Inaccurate

AT&T's Petition, mistakenly alleges that South Canaan Telephone Company, Searsboro Telephone Company, Ronan Telephone Company, Rochester Telephone Company, Northwest Iowa Telephone Company⁴, and Prairie Grove Telephone Company failed to file new tariffs implementing the changes required by the Commission.⁵ The listed companies each are participants in the ICORE, Inc. tariff revisions which were filed December 17, 1997 and contained rate revisions for these

³In re Regulation of Small Telephone Companies, 2 FCC Rcd 3811 (1987).

⁴AT&T's Petition refers to "Northwest Telephone-IA (IA)". ICORE responds to AT&T's allegations to the extent that AT&T intended to indicate Northwest Iowa Telephone Company.

⁵AT&T's Petition at p. 4.

carriers. Consequently, AT&T has provided no grounds for suspension and investigation of these carrier's tariff rates.

III. AT&T's Request for Cost Support Is Unreasonable And Undermines the Intent of Section 61.39 of the Commission's Rules And The Public Interest

The Commission established streamlined tariff review for access tariff filings by Tier 2B companies which choose to use an historical test year. The intent of these rules was to reduce the administrative burdens associated with the filing of access tariffs.⁶ The Commission's efforts to reduce unnecessary regulatory burdens on smaller carriers would be undermined by suspending the ICORE small company tariff and subjecting the ICORE Companies to a contentious investigation. The Commission has attempted to develop approaches adequate to assure just and reasonable rates with a minimum of administrative and regulatory burden on Tier 2B local exchange carriers.⁷ In the context of annual access tariff filings, the Commission concluded that:

In developing cost support and other filing requirements for the annual access tariffs, this Commission has always sought to recognize the special circumstances of small companies, and to develop approaches adequate to assuring just and reasonable rates with a minimum of administrative burdens. See e.g., Sections 61.39 and 69.3(f) of this Commission's Rules, 47 C.F.R. §§ 61.39 and 69.3(f). In considering the specific requirements of future access tariff filings, including data requirements and waivers in particular cases, we will continue to take account of the special circumstances of small telephone companies.⁸

The Commission has also initiated further proceedings designed to streamline rate regulation

⁶ Id.

⁷ In re Commission Requirements for Cost Support Material to be Filed with 1993 Annual Access Tariffs, Order, DA 93-192, slip op. at ¶ 9 (released February 18, 1993).

⁸ Access Tariff Filing Schedules, CC Docket No. 88-326, FCC 88-283, 3 FCC Rcd 5495, ¶ 27 (released September 14, 1988).

of small local exchange carriers to provide simplification, reduce regulatory burdens, and to assure reasonable rates.⁹ The Commission concluded in that proceeding that "one of the more substantial regulatory burdens that many LECs bear is the requirement to make annual tariff filings pursuant to Section 69.3 of the Commission's Rules."¹⁰ After comparing tariff rates filed pursuant to Section 61.39 of the Commission's rules to the tariff rates of other local exchange carriers, the Commission concluded that rates based on actual historical costs are consistently lower than rates filed by the National Exchange Carrier Association (NECA) and other carriers using projected costs and demand.¹¹

Section 61.39 of the Commission's Rules presumes that LECs would first file their tariff rates for review by the Commission and interested parties. If the Commission or interested parties perceived a problem with the rates as filed, only then would they request supporting data from a small LEC. However, AT&T routinely ignores the Commission's intent by requesting supporting data from small LECs without even reviewing the rate revisions that they have proposed. AT&T's behavior is clearly at odds with the Commission's intent.¹² Consequently, the grant of AT&T's Petition will only encourage further unreasonable requests in contravention of Commission policy.

Moreover, AT&T requests information that is either unnecessary or irrelevant for establishing rates for either the small cost companies or average schedule companies participating in ICORE's tariff. For, example AT&T has requested *prospective* Part 36 and 69 cost studies when six of the

⁹ In re Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, Notice of Proposed Rulemaking, 7 FCC Rcd 5023, ¶¶ 3, 35 (released July 17, 1992).

¹⁰ Id. at 5025, ¶ 10.

¹¹ Id. at 5028, ¶ 29.

¹² Not even AT&T, which controls 50% of the long distance telecommunications market and more local access lines than any of the ICORE small companies, is required to file supporting information before it files its tariff revisions.

ICORE companies only base rates on historical costs and the remaining fifteen average schedule companies perform no cost studies at all. AT&T also requests prospective data on Corporate Operations Expenses which is irrelevant for the same reason. Moreover, AT&T requests these small LECs to provide information concerning their deregulated activities when these activities have no bearing on the calculation of interstate access service rates.

AT&T's unreasonable and constant demands for such irrelevant information serve no lawful purpose, subject these small LECs to an unwarranted regulatory burden that the Commission has tried to alleviate, and are contrary to the public interest. Just the filing of AT&T's Petition has caused many small LECs to bear the legal expenses associated with the preparation of this Opposition; an expense they otherwise would have avoided. Consequently, the grant of AT&T's Petition will only permit AT&T to do an "end-run" around the Commission's Section 61.39 Rules effectively removing the benefits they accord to small companies in reducing unwarranted regulatory and administrative burdens.

III. Conclusion

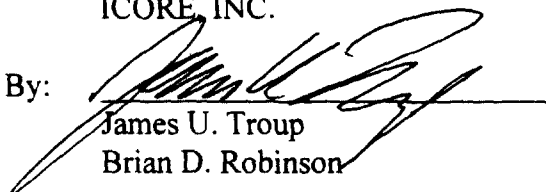
The suspension and burdensome investigation suggested by AT&T of the Access Reform Tariff Filing made by ICORE, Inc. on behalf of the ICORE Companies is unwarranted and should be denied. The suspension and contentious investigation sought by AT&T would be contrary to the public interest because it would undermine the Commission's efforts to reduce administrative and regulatory burdens on small telephone companies. AT&T has made unreasonable requests for supporting data that if permitted, undermine the intent of the Commission to reduce burdens on small carriers. The ICORE Companies stand ready to supply supporting data relevant to average schedule companies or small LECs that calculate their rates on the basis of only historical cost and demand data upon receiving a reasonable request.

WHEREFORE, ICORE, Inc. respectfully requests that the Commission deny the Petition of AT&T Corp. for suspension and investigation of its Access Charge Reform tariff filing.

Respectfully submitted,

ICORE, INC.

By:


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December 29, 1997

CERTIFICATE OF SERVICE

I, Tracey Beaver, do hereby certify that on this 29th day of December 1997 I have caused to be served a copy of the foregoing "Opposition of ICORE, Inc. to Petition of AT&T Corp." by hand delivery or facsimile upon the parties listed on the attached service list.


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